IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 788 of 1996

Between:

M. Simhachalam S/o Narasam Naidu
Aseelmetta, Visakhapatnam

..... PETITIONER

AND

1 A.P.S.E.B. Board rep. by Secretary
Vidyuth Soudha, Somajiguda,
Khairatabad, Hyderabad
2 Chief Engineer Visakhapatnam Zone
A.P.S.E.B. Board, Visakhapatnam
3 The Superintending Engineer Operation Circle,
Visakhapatnam
4 The Divisional Electrical Engineer OPeration Division/Zone-I,
Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, Order or direction particularly a Writ in the nature of Mandamus declaring the prolonged Suspension in terms of Proceedings Memo No.AD/A-1/D.No.1525/94, dt: 10-6-1994 of the 3rd respondent as extended and from time to time by the Board while paying subsistence allowance under the unrevised scales as arbitrary, illegal and consequently order reinstatement into service by revoking the suspension orders with all consequential and attendant benefits including payment of difference of salary by taking into account the Revised Scales of pay into consideration.

Counsel for the Petitioner:DR.P.B.VIJAY KUMAR

Counsel for the Respondent Nos. 1to 4: MR.S.RAVINDRANATH

The Court made the following :

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ORDER:

The petitioner who has been working as Sub-Engineer-in Distribution Section with the respondent Board filed this Writ Petition inter alia, seeking a Writ of Mandamus challenging against the orders of suspension dated 10.6.1994 passed by the third respondent herein and has extended from time to time.

The case of the petitioner is that there is absolutely no justification for placing him under suspension and even otherwise the subsistence allowance is also not been paid properly in terms of the scale to which he is entitled to. Further it is now pointed out by the learned counsel appearing for the petitioner that ACB case in respect of which the suspension order was passed has ultimately ended in acquittal as per the orders dated 28.12.1998 by the III Additional District and Sessions Judge-cum-Special Judge for ACB Cases, Visakhapatnam therefore, there is no justification in continuing the order of suspension.

In the counter affidavit filed on behalf of the respondents herein, they sought to justify the impugned orders of suspension mainly on the ground that the case is pending before the Special Court, ACB cases, Visakhapatnam and therefore, he has been rightly placed under suspension.

On consideration of submissions made and also on perusal of the material on record, the only question that falls for consideration is whether the petitioner may be continued to remain under suspension. Even the impugned order also specifically says that the suspension is only due to the said trap case by the ACB. However,

having regard to the fact that the petitioner has already been acquitted, after regular trial by the Special Judge for ACB cases, Visakhapatnam, the very basis on which the impugned order came to be passed is totally vicious. Except the said reasons no other reasons have been pointed out nor there is any indication to show that independently the respondents are trying to proceed with the departmental enquiry of its own.

In the circumstances, the Writ Petition is allowed and the impugned order dated 10.6.1994 is set aside. No costs.

Ka 25.11.2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Twenty Fifth Day of November Two Thousand and Four.

To

1 A.P.S.E.B. Board rep. by Secretary
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Khairatabad, Hyderabad
2 Chief Engineer Visakhapatnam Zone
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